



## The Attorney General of Texas

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Mr. Lawrence K. Pettit  
Chancellor  
University System of South Texas  
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Open Records Decision No. 419

Re: Whether a self-study  
report prepared by Texas A & I  
University is available to the  
public under the Open Records  
Act

Dear Chancellor Pettit:

You have received a request under the Open Records Act for a document entitled "1982-1983 Institutional Self-Study" which Texas A & I University prepared as part of its regular accreditation review by the Southern Association of Colleges and Schools. You state that the self-study was prepared with the understanding that it would remain confidential, and you contend that it is not "information collected, assembled, or maintained by [a] governmental bod[y]" within the Open Records Act. You also present other legal arguments and some policy arguments for withholding the entire self-study from public disclosure.

The Southern Association of Colleges and Schools is an autonomous, voluntary association of postsecondary educational institutions. Commission on Colleges, Southern Association of Colleges and Schools, Manual for Accreditation at 1, 5 (Feb. 1984). It develops criteria serving as a measure of quality for institutions of higher education in the southeast and applies these standards in the process of accrediting member institutions. Id. at 1-2. Initial accreditation is necessary to receive membership in the association. Id. at 5. Subsequently, member institutions must participate in an institutional self-study every 10 years followed by a visit from a Southern Association committee which assesses and reports on the educational strength of the institution. Id. at 5. The report is designed to assist the institution in improving its programs and to guide the association in its decision on accreditation. Id. at 9.

You first argue that the institutional self-study is not public information subject to the Open Records Act because it was not

collected, assembled, or maintained . . . pursuant  
to law or ordinance or in connection with the  
transaction of official business.

Sec. 3(a).

A study of the report itself shows that it was assembled in connection with official business. It was prepared by committees of faculty members directed by a faculty member whom the president appointed. The committees prepared and administered student and faculty questionnaires, and each department prepared a self-study. The committee reports were edited by a faculty member also appointed by the president. Thus, university personnel at every level contributed to the report. Moreover, the Southern Association of Colleges and Schools Manual for Accreditation states that "[a] successful self-study results from total institutional commitment, needing the full support of the governing board, administration, faculty, and staff." Manual for Accreditation, at 21.

Not only were university resources devoted to preparation of the report, but its recommendations will guide the future development of the university. See A & I University, 1984 Implementation Plan for the Recommendations, Institutional Self-Study. These facts demonstrate that the report was prepared "in connection with the transaction of official business" of the university, and therefore it is a public record to which the Open Records Act applies.

You also argue that the university's interests would be served by maintaining the report as confidential because revelation of the draft document might injure the university's reputation or cause the university to leave self-critical information out of the report. You indicate that the public interest is served when the results of accreditation visits are revealed.

However, the legislature has already declared the public policy of the state in section 1 of the Open Records Act:

[I]t is hereby declared to be the public policy of the State of Texas that all persons are, unless otherwise expressly provided by law, at all times are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees.

Thus, we need not consider public policy arguments which have not been incorporated into specific Open Records provisions. The Open Records Act does not authorize a governmental body to withhold information from the public, except as expressly provided. V.T.C.S. art. 6252-17a, §14(b). Open Records Decision No. 276 (1981); see also Open Records Decision No. 192 (1978) (evaluation report by Coordinating Board on private college not excepted from public disclosure).

You finally state that section 3(a)(11) of the Open Records Act applies to the self-study report, because

it is an inter-agency memorandum prepared under the guidelines of the accrediting association for the sole purpose of being used by the accreditation team for their on-site accreditation review visit.

Elsewhere you state that the purpose of the self-study is to enable the institution to improve its educational program and maintain standards that will justify accreditation. The self-study report, the 1984 Implementation Plan for the Recommendations, Institutional Self-Study and the Manual of Accreditation state that it is used by the university for self-improvement as well as by the association for accrediting. Thus, we need not decide whether section 3(a)(11) applies to information generated by a governmental body for the use of outside consultants. Compare Open Records Decision No. 335 (1982); 293, 273 (1981); and 192 (1978) (3(a)(11) applies to information prepared by outside consultant for governmental body).

The Open Records Act requires the agency to determine which specific exception applies to particular information. Open Records Decision No. 150 (1977). A general claim that an exception applies to an entire report, when the exception is clearly not applicable to all of the information in the report, does not comport with the procedural requirements of the Act. Section 3(a)(11) is, however, clearly applicable to some sections of the self-study report, and we will point out which sections may be withheld under this exception. See Open Record Decision No. 315 (1982).

Section 3(a)(11)

is intended to protect from public disclosure advice and opinions on policy matters and to encourage frank and open discussion within the agency in connection with its decision-making processes.

Austin v. City of San Antonio, 630 S.W.2d 391, 394 (Tex. App. - San Antonio 1982, writ ref'd n.r.e.). It does not exempt objective data. Id. Any factual information which is severable from advice, opinion and recommendation is not excepted from public disclosure by section 3(a)(11). See Open Records Decision No. 222 (1979).

The institutional self-study report itself separates material into presentations of factual, objective data and presentations of advice, opinion and recommendation derived from a particular body of data. A typical chapter on Educational Programs includes an introduction and sections describing admissions, curriculum and instruction. Each section describes the title subject, drawing on already public sources such as the catalog and the faculty handbook as well as information collected in the self-study process. Statistical

information as to the distribution of grades and scholastic probation figures is included.

A section entitled "Projections" discusses the expected development of the university, while a section on "Recommendations" notes particular programs or activities that should be undertaken. These two latter sections are excepted by 3(a)(11). The "projections" predict that specified long range plans will be carried out in the future and indicate possible future events which might bring other plans into operation, for example, legislative decisions on funding. This section is speculative and contains little besides opinion and recommendation. It may be withheld in its entirety. The "recommendations" consist of specific suggestions for the university and are clearly excepted from disclosure by section 3(a)(11).

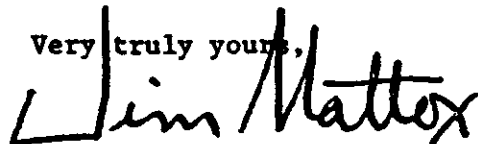
Each chapter is structured like the chapter on educational programs: several factual sections containing only objective data are followed in some chapters by a section on projections and in all chapters by a section on recommendations.

Some chapters also summarize answers given on questionnaires surveying student or faculty opinion. The questionnaires ask whether the respondent agreed, disagreed, or had no opinion on various statements. Results are given as a percentage of respondents checking each multiple choice answer. No individuals are identified. Statistical summaries of opinion survey results are not excepted from public disclosure by section 3(a)(11). See Open Records Decision No. 209 (1978).

Appendices give the names of committee members who prepared each chapter as well as other objective data such as forms used by the university and questionnaires used in the self-study. The appendices consist of factual, objective data and are open to the public.

In summary, the "projections," "conclusions" and "recommendations" portions of the Texas A & I "1982-1983 Institutional Self-Study" are excepted from public disclosure. The remainder of the report is available to the public.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jim Mattox". The signature is fluid and cursive, with a large initial "J" and "M".

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